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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking into the
Review of the California High Cost Fund-A
Program.

Rulemaking 11-11-007
(Filed November 10, 2011)

**JOINT ASSIGNED COMMISSIONER AND ADMINISTRATIVE LAW JUDGE
RULING SETTING THE SCOPE, SCHEDULE, PROCEDURES AND ISSUES
FOR PHASE 1 OF THE RULEMAKING FOR THE REVIEW OF THE
CALIFORNIA HIGH COST FUND A PROGRAM**

This Ruling provides the specific scope, schedule, procedures and issues for Phase I of this proceeding.

1. Background and Relevant Procedural History

With the Order Instituting Rulemaking (OIR) (R.11-11-007), the Commission began a review of the California High Cost Fund-A (CHCF-A) program. The OIR was issued pursuant to the Commission's Decision (D.) 10-02-016. The Commission has determined that a detailed review of the program is warranted in response to market, regulatory, and technological changes since the California High Cost Fund program was first established in 1987. In this OIR, the Commission seeks comment on how the program can more efficiently and effectively meet its stated goals. To the extent deficiencies are identified, the Commission will solicit proposals on how the program should be modified consistent with its statutory purposes.

The OIR was approved on November 10, 2011, and issued on November 18, 2011. The preliminary schedule mandated that the initial

comments be filed and served 61 days after issuance (January 18, 2012), and that reply comments be due 91 days after issuance. On January 3, 2012 (via e-mail), The Utility Reform Network (TURN), a party in the proceeding, requested an extension of time to file initial comments pursuant to Rule 16.6. In a ruling issued on January 17, 2012, the request for extension was granted. By that ruling the proceeding schedule was revised so that initial comments were to be filed and served by February 1, 2012, and reply comments were to be filed and served by March 2, 2012.

On February 17, 2012 (via e-mail) the Commission's Division of Ratepayer Advocates (DRA) requested an extension of time to file reply comments. In a ruling issued on February 23, 2012, an extension, allowing reply comments to be filed and served on March 16, 2012, was granted.

On March 8, 2012 Calaveras Telephone Company, Cal-Ore Telephone Company, Ducor Telephone Company, Foresthill Telephone Company, Kerman Telephone Company, Pinnacles Telephone Company, The Ponderosa Telephone Company, Sierra Telephone Company, Inc., The Siskiyou Telephone Company and Volcano Telephone Company (collectively, Independent Local Exchange Carriers or Small ILECs) filed a Motion to Disqualify Current Carrier Oversight and Programs Branch Advisors from Further Advisory Roles in the instant proceeding (Motion to Disqualify). Contemporaneously, the Small ILECs filed a Motion to Strike the Opening Comments of Tyler Werrin (Motion to Strike). Attached to the motion was the Declaration of Patrick Rosvall (Rosvall Declaration), counsel for the Independent Small LECs. Also on March 8, the Small ILECs sent a letter to Commission President Michael R. Peevey requesting that the Commission initiate an investigation into the Communications Division's conduct in connection with the instant proceeding (Request for

Investigation). On March 9, 2012, the Small ILECs filed a Motion to Hold the Proceeding in Abeyance or Extend Time for Reply Comments (Motion to Hold in Abeyance).

On June 4, 2012, a Prehearing Conference (PHC) was held in the instant proceeding. The assigned Commissioner and the assigned Administrative Law Judge (ALJ) were both present at the hearing. The parties discussed how the OIR should proceed, including the possible need for hearings and/or workshops,¹ as well as the need to clearly define the issues at play in the proceeding.

On June 29, 2012, the assigned ALJ issued a ruling denying the motion to disqualify current Carrier Oversight and Programs Branch advisors from further advisory roles in this proceeding, denying the motion to strike the opening comments of Tyler Werrin and affirming the ruling denying motion to hold proceeding in abeyance.

On October 15, 2012, the Small ILECs filed a motion for a Proposed Decision adopting a one-year stay in the CHCF-A General Rate Case Schedule (GRC) and "Waterfall Mechanism." Various parties filed Responses on October 30, 2012. The Small ILECs filed a Reply to the Responses, on November 5, 2012. On January 11, 2013, Commissioner Sandoval issued a Proposed Interim Decision (PD) adopting a one-year stay in the GRC Schedule of the Small ILECs with the exception of Kerman and a one-year freeze in the Waterfall Mechanism.² The PD also allowed the stay and freeze to be extended for six months by the assigned ALJ. Various parties filed initial comments on

¹ PHC Transcript 17:12-28, 19:15-28, 21:17-28.

² Retroactive to January 1, 2013 and extending to December 31, 2013.

January 31, 2013, and reply comments on February 5, 2013. The Commission adopted the Interim Decision³ on February 13, 2013. On March 22, 2013 the Small ILECs filed an Application for Rehearing.

On May 22, 2013, the assigned Commissioner issued a Scoping Memo and Ruling. Parties were instructed to file and serve additional comments by June 28, 2013, with additional reply comments filed and served by July 11, 2013. Parties were instructed to request evidentiary hearings, if necessary, within ten days after reply comments were due. Later, an extension of time was granted by the ALJ, allowing for submission of the additional reply comments on August 16, 2013.

On July 19, 2013, the California Cable & Telecommunications Association (CCTA), the Office of Ratepayer Advocates (ORA),⁴ TURN, Happy Valley Telephone Company, Hornitos Telephone Company, and Winterhaven Telephone Company (TDS Telecom), and the Small ILECs filed reply comments on the Scoping Memo and Ruling.

On August 1, 2013, the Small ILECs filed a Motion for a Protective Order in this proceeding in order to prevent the public disclosure of sensitive information. The Small ILECs offered their Reply to the Responses on September 9, 2013.

On August 16, 2013, ORA, TDS Telecom, TURN, and the Small ILECs submitted reply comments on the Scoping Memo Ruling.

³ D.13-02-005.

⁴ The Office of Ratepayer Advocates was formerly known as the Division of Ratepayer Advocates (DRA). *See* Stats. 2013, Ch. 356, Sec. 42.

On August 30, 2013, the Small ILECs submitted a Motion for Evidentiary Hearings. On September 16, 2013 ORA, TURN, and CCTA filed responses to the Small LEC's motion. The Small LECs submitted a Reply to the Responses on September 25, 2013.

On October 24, 2013, the Small ILECs and ORA submitted a Joint Motion for a limited extension of the General Rate Case schedules and a freeze of the waterfall mechanism for CHCF-A recipients. On December 20, 2013, in an Administrative Law Judge Ruling issued by the assigned ALJ, the requests in the Joint Motion were approved.

On January 23, 2014 a (second) PHC was held. ALJ Colbert and Commissioner Sandoval co-presided over the conference.

On January 27, 2014, the Small ILECs submitted their Motion for Revisions to Scoping Memo, Inclusion of all Material Factual Disputes in Evidentiary Hearings, and Establishment of Schedule for Phase I of this proceeding. On February 11, 2014, TDS Telecom and TURN responded to this Motion. ORA's response followed on February 13, 2014. The Small LECs issued a reply to the responses on February 20, 2014.

On February 25, 2014, ALJ Colbert issued a Ruling Noticing Public Participation Hearings, which scheduled three public participation hearings (PPHs). On February 27, 2014, the Commission issued an Order Denying Rehearing of Decision 13-02-005.

On March 18, 2014, the assigned Commissioner issued an Amended Scoping Memo and Ruling. The Amended Scoping Ruling revised the scope set forth in that earlier Scoping Memo, identified new issues, set forth the issues to be addressed in workshops, evidentiary hearings and/or briefs, and sought additional comments from the Parties, in light of the initial opening comments,

the initial PHC, the second PHC, as well as the passage of Senate Bill (SB) 379. In addition, the proceeding was divided into two phases. On March 25, 2014, the assigned ALJ issued an e-mail ruling clarifying the scope of the comments to the Amended Scoping Ruling. On April 8, 2014, Parties filed their initial comments.

On April 9, 2014 a third PHC was held in order to discuss the scheduling and details for workshops, evidentiary hearings and briefs in the proceeding. Commissioner Sandoval and ALJ Colbert co-presided. On April 17, 2014, a PPH was held in North Fork, CA. On April 21 a PPH was held in Jackson, CA. The third and last PPH was held in Yreka, CA on May 8, 2014.

On April 15, 2014, the Small ILECs submitted a letter to the Commission's Executive Director pursuant to Rule 16.6 requesting a 60-day extension of time as to the current rate case deadline and associated waterfall mechanism. The current deadline is June 30, 2014. The deadline is governed by D.91-09-042, D.13-10-005, and the December 20, 2013 ALJ Ruling issued in R.11-11-007. The extension will allow time for the assigned Commissioner and ALJ to evaluate a proposal for a further formal extension of the deadline and issue an appropriate Proposed Decision for the Commission's consideration. The details of the request are outlined in the letter. The extension request was granted on April 29, 2014.

On April 22, 2014, Parties, with the exception of the Small ILECs filed reply comments to the Amended Scoping Ruling. On April 23 the Small ILECs were allowed to late file their comments.

We have reviewed the comments and reply comments to the Amended Scoping Ruling as well as the transcript from the third PHC. In that light we have made the instant Ruling. The Ruling addresses the specific scope, schedule and issues for Phase I of this proceeding.

2. Schedule

As set forth in this Amended Scoping Memo, hearings, workshops, and briefs will be required in this proceeding. The proposed schedule was discussed at the third PHC and Parties addressed the issue in their reply comments. The table (below) contains the specific dates and times for the workshops, hearings, the submission of briefs, the Proposed Decision and start of Phase II.

Event	Date
Public Participation Hearing #3 Holiday Inn Express Yreka – Big Meeting Room 707 Montaque Road Yreka, CA 96097	May 8, 2014 @ 4:00 p.m.
Workshops, Held Golden Gate Room 505 Van Ness Avenue San Francisco, CA	May 28, 2014 @ 10:00 a.m. (also May 29, 2014, if needed)
Workshop Report (tentative, pending outcome of workshop)	June 16, 2014
Concurrent Opening Testimony, Served	July 11, 2014
Concurrent Reply Testimony, Served	August 1, 2014
Evidentiary Hearings, Held Commission Courtroom State Office Building 505 Van Ness Avenue San Francisco, CA 94102	September 2-4, 2014 @ 10:00 a.m.
Opening Briefs, Filed and Served	September 26, 2014
Reply Briefs, Filed and Served	October 10, 2014
Anticipated Date of Proposed Decision	December, 2014
Phase II Commences	February, 2015

3. Workshops

The Amended Scoping Ruling set forth the issues that are to be addressed in the instant proceeding. Some issues were set for hearings, some issues for workshops, some for briefs and some were a combination.⁵ At the third PHC and in their reply briefs Parties were asked to specifically address how the workshops should be conducted, including what issues would be addressed; whether the workshops would be facilitated; whether the workshops would be transcribed; and what would be the form and content of the workshop report. After reviewing the comments of the Parties, we have determined that the workshops will be conducted as follows:

1. The workshops will be facilitated. ALJ Maribeth Bushey will be the facilitator.
2. The workshops will not be transcribed.
3. Staff of the Commission's Communication Division will be available to discuss and give a presentation if necessary, on proposed changes to the CHCF-A procedural rules, as set forth in Issue 3.7 of the Amended Scope, for the consideration of the Parties.
4. At the conclusion of the workshop, the participants and facilitating ALJ shall decide whether a Workshop Report will be prepared. Any workshop report should be drafted by the parties and should not be intended to summarize or transcribe the discussions at the workshops. Rather, any such workshop report would be designed to memorialize substantive or procedural agreements, set forth undisputed statements of fact, or other mutually agreed-upon objective.

⁵ Amended Scoping Memo and Ruling at 10-12

5. All issues set for workshops in the Amended Scoping Ruling remain in place; in addition, the Parties may discuss those issues, set for briefing only in the Amended Scope, in the workshops.

4. Hearings

The issues designated for hearings in the Amended Scoping Ruling remain without deletion. Issue 3.5 (B) (What standards should be used to evaluate investment in broadband capable facilities) of the Amended Scoping Ruling will be added as an issue to be addressed in hearings, in addition to the workshop and briefs.

5. Addition to the Scope

Issue 3.4 in the Amended Scope will be revised to allow consideration of the Federal Communications Commission's proposal to implement a new benchmark basic, local rate floor for rural, rate-of-return carriers.

IT IS RULED that the specific scope, schedule, procedures and issues for Phase I of this proceeding are set forth in Sections 2-5 of this Ruling.

Dated May 14, 2014, at San Francisco, California.

/s/ CATHERINE J.K. SANDOVAL
Catherine J.K. Sandoval
Assigned Commissioner

/s/ W. ANTHONY COLBERT
W. Anthony Colbert
Administrative Law Judge